

Prob 12C

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**PETITION FOR WARRANT OR SUMMONS FOR
OFFENDER UNDER SUPERVISION**

Offender Name: Brent Daniel SHAW

Docket Numbers: 1) 2:03CR00182-01; 2) 2:04CR00222-01

Offender Address: Sacramento, California

Judicial Officer: Honorable D. Lowell Jensen
Senior United States District Judge
Sacramento, California

Original Sentence Date: 11/04/2004

Original Offense: 2:03CR00182-01 (Count 1): 18 USC 1341 - Mail Fraud (CLASS D FELONY)
2:04CR00222-01 (Count 1): 26 USC 7206(2) - Aiding and Assisting in Presentation of a False and Fraudulent Income Tax Return (CLASS E FELONY); (Count 2) 18 USC 510 - Forging Endorsements on Treasure Checks (CLASS C FELONY)

Original Sentence: 2:03CR00182-01: 21 months Bureau of Prisons; 36 month term of supervised release (run concurrent with term imposed in 2:04CR00222-01); \$100 special assessment.
2:04CR00222-01: 21 months Bureau of Prisons; 12 month term of supervised release on Count 1 and 36 month term of supervised release on Count 2 (run concurrent with term imposed in 2:03CR00182-01); \$200 special assessment.

Special Conditions: Both cases: Search; Not dispose or dissipate assets; Financial disclosure; Not incur new credit charges; Participate in drug and alcohol treatment program; Aftercare co-payment; Cooperate with IRS; Not prepare any part of federal income tax return or claim for a refund other than his own; Not take any action in aiding, assisting or advising with respect to preparation of

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federal income tax return; Not organize, sell or promote the use of trusts and any other tax scheme; Not engage in conduct that interferes with the administration and enforcement of Internal Revenue laws.

Type of Supervision: Supervised Release

Supervision Commenced: 07/14/2006

Assistant U.S. Attorney: To be determined **Telephone:** (916) 554-2700

Defense Attorney: Mary French **Telephone:** (916) 498-5700

Other Court Action: None

PETITIONING THE COURT

(X) OTHER: To place the matter on the Court's calendar for April 8, 2008, at 9:00 a.m. The probation officer will notify the defendant and counsel of the hearing.

The probation officer alleges the offender has violated the following condition(s) of supervision:

Charge Number Nature of Violation

Charge 1: FAILURE TO COOPERATE WITH IRS

Offender failed to provide records to the Internal Revenue Service by February 15, 2008, as he had been instructed by an IRS revenue officer on two separate occasions, in violation of Special Condition 7.

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Charge 2: FAILURE TO FOLLOW THE PROBATION OFFICER'S INSTRUCTIONS

On December 20, 2007, the offender was instructed by the probation officer to provide the Internal Revenue Service with specific requested financial information by February 15, 2008, and failed to do so, in violation of Standard Condition Number 3.

Charge 3: FAILURE TO NOTIFY THE PROBATION OFFICER WITHIN 72 HOURS OF BEING ARRESTED

On March 12, 2008, the releasee was arrested by West Sacramento Police Department on charges of Driving on a Suspended License, and he failed to report the contact to the probation officer in violation of Standard Condition Number 4.

Justification: Mr. Shaw was instructed by the Internal Revenue Service to provide requested financial information by March 27, 2007. When he failed to do so, he was then served a summons to appear at the Internal Revenue Service office with records on July 18, 2007. He failed to do so. The Internal Revenue Service officer then contacted the probation officer and a meeting was arranged on December 20, 2007, after it was clear Mr. Shaw was not cooperating. At that time, Mr. Shaw agreed to cooperate and to provide all requested information to Officer Palmer and myself by February 15, 2008. The information that he has failed to provide are tax returns from December 31, 1997 to December 31, 2005. The Internal Revenue Service filed his 1993 return for him but he has the opportunity to refile it himself if he thinks their return is erroneous. Mr. Shaw indicates that he would like to try to claim one of his children as a deduction for that year and redo the return, but he has failed to provide a new return.

Mr. Shaw has been marginal in his compliance with the conditions of supervision. He has worked sporadically in the mortgage industry. He has been told by the probation officer on several occasions that he needs to secure another part-time job or full-time job so that he is gainfully employed full-time. He stays on the fringe of compliance. His most recent

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arrest and failure to report it when he saw the probation officer the following day is very telling about his lax attitude toward his supervision requirements.

Bail/Detention: It is not believed that Mr. Shaw is either a flight-risk or a danger to the community and therefore detention is not requested.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED ON: March 17, 2008
Sacramento, California
LLK/cp

Respectfully submitted,

/s/Lori L. Koehnen
LORI L. KOEHNEN
Senior United States Probation Officer
Telephone: (916) 930-4318

REVIEWED BY: /s/Kyriacos M. Simonidis
KYRIACOS M. SIMONIDIS
Supervising United States Probation Officer

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THE COURT FINDS PROBABLE CAUSE AND ORDERS:

- ☐ The issuance of a warrant ☐ Bail set at \$ ____ ☐ No Bail
- ☐ The issuance of a summons (copy to Defense Counsel).
- ☒ Other: To place the matter on the Court's calendar for April 8, 2008, at 9:00 a.m.
The probation officer will notify the defendant and counsel of the hearing.

FURTHER PROCEEDINGS REGARDING CUSTODY:

- ☐ Defendant is ordered detained, to be brought before District Judge forthwith.
- ☐ Initial appearance and detention hearing before Magistrate Judge.

March 18, 2008
Date


Signature of Judicial Officer

cc: United States Probation
To be determined, Assistant United States Attorney
Marcy French, Defense Counsel
United States Marshal Service

**STATEMENT OF EVIDENCE OF ALLEGED
SUPERVISED RELEASE VIOLATIONS**

Honorable D. Lowell Jensen
United States District Judge
Sacramento, California

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2) 2:04CR00222-01

Your Honor:

In addition to a copy of the **Acknowledgment of Conditions of Probation or Supervised Release and Receipt of Criminal Judgment and Judgment and Commitment Order**, the following evidence and/or testimony will be offered to support the probation officer's allegation that the above-named releasee is in violation of the conditions of supervision as stated on the attached Probation Form 12C - Petition for Warrant or Summons for Offender Under Supervision.

Charge 1: FAILURE TO COOPERATE WITH IRS

A. Evidence:

- (1) A copy of the summons dated June 25, 2007 (both in names Brent Shaw and Brent Hernandez) issued by the IRS for the offender's appearance on July 18, 2007.
- (2) Letter dated March 14, 2007, from IRS Officer Palmer to defendant requesting financial records by March 27, 2007.

B. Witnesses:

- (1) Internal Revenue Service agent David Palmer will testify that the offender has been instructed to provide records, all requested returns and the Collection Information Statement, and that the deadline has been extended twice because the offender failed to provide the requested information.

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Charge 2: FAILURE TO FOLLOW THE PROBATION OFFICER'S INSTRUCTIONS

A. Evidence:

- (1) None.

B. Witnesses:

- (1) Senior United States Probation Office Lori L. Koehnlen will testify that Mr. Shaw was personally instructed on December 20, 2007, to provide all requested information to the Internal Revenue Service by February 15, 2008, with copies to the probation officer. She will further testify that he has failed to do so.

Charge 3: FAILURE TO NOTIFY THE PROBATION OFFICER WITHIN 72 HOURS OF BEING ARRESTED

A. Evidence:

- (1) Notice of Arrest from West Sacramento Police Department.
- (2) Automated criminal history (CII) showing March 12, 2008 arrest.

B. Witnesses:

- (1) Senior United States Probation Office Lori L. Koehnlen will testify that Mr. Shaw reported to the U.S. Probation Office on March 13, 2008, and did not report arrest, nor did he by the end of the 72 hours.

Respectfully submitted,

/s/Lori L. Koehnlen
LORI L. KOEHNEN
Senior United States Probation Officer

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DATED: March 17, 2008
Sacramento, California
LLK/cp

REVIEWED BY: /s/Kyriacos M. Simonidis
KYRIACOS M. SIMONIDIS
Supervising United States Probation Officer

REVOCATION GUIDE - SUPERVISED RELEASE

Offender Name: Brent Daniel SHAW

Docket Numbers: 1) 2:03CR00182-01;
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Date of original offense: 1) 03/07/2000; 2) 04/15/2000

Original term of supervised release imposed: 3 years.

Highest grade of violation alleged: C

Criminal History Category of offender: I

Chapter 7 range of imprisonment: 3 to 9 months.

Maximum term on revocation - 18 USC 3583(e)(3): (choose one below)

- ☐ Class A felony - 5 years (or stat max of ___ years if longer).
- ☐ Class B felony - 3 years
- ☒ Class C and/or D felony - 2 years - both cases.
- ☐ Class E felony and misdemeanors: 1 year

Violation requires mandatory revocation: YES: ___ NO: X.

Original offense committed after 09/13/94: Court may sentence up to the statutory maximum term of supervised release applicable to the original offense of conviction, but not exceed the maximum for the classes of offenses noted above. Court must consider but is not bound by Chapter 7 ranges. Upon revocation, the court may re-impose supervised release; however, the term is limited to the statutory maximum authorized under Title 18 USC 3583(e)(3) for the original offense of conviction, less the term of imprisonment imposed upon revocation.

MANDATORY REVOCATION ISSUES

Original offense committed after 09/13/94: Title 18 USC 3583 instructs that supervision shall be revoked upon a finding of: 1) Possession of a controlled substance; 2) Possession of a firearm; or, 3) Refusal to comply with mandatory drug testing. If the violation involves the use of a controlled substance, the Court has the discretion to find that "use" constitutes "possession."

Positive/Failed Drug Tests after 11/02/2002: Title 18 USC 3583(g) amended and instructs that supervision be revoked for: Testing positive for illegal controlled substances more than three times over the course of one year.

03/17/2008
LLK/cp